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JESUS CARLOS

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

JESUS CARLOS,) Case No.: 2:16-cv-2598
)
Plaintiff,) COMPLAINT
)
v.) (Unlawful Debt Collection Practices)
)
CONSUMER PORTFOLIO)
)
SERVICES, INC.,)
)
Defendant.)

JESUS CARLOS (Plaintiff), by his attorneys, WESTGATE LAW, alleges the following against CONSUMER PORTFOLIO SERVICES, INC. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (FDCPA).

2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. 1367

1 grants this court supplemental jurisdiction over the state law claims contained
2 herein.

3 4. Defendant conducts business in the state of California; therefore, personal
jurisdiction is established.

5 5. Venue is proper pursuant to 28 U.S.C. 1331(b)(2).

6 **PARTIES**

7 6. Plaintiff is a natural person residing in Covina, Los Angeles County,
8 California.

9 7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and
10 according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15
11 U.S.C. 1692a(5) and Cal. Civ. Code § 1788.2(h).

12 8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6)
13 and Cal. Civ. Code § 1788.2(c), and sought to collect a consumer debt from Plaintiff.

14 9. Defendant is a business with offices in Irvine, California.

15 **FACTUAL ALLEGATIONS**

16 10. Since 2015, and specifically within one (1) year prior to the date of filing of
17 this action, Defendant repeatedly collection calls to Plaintiff seeking and demanding
18 payment for an alleged debt owed for an alleged deficiency balance on a motor
19 vehicle.

20 11. Plaintiff's alleged debt arises from transactions for personal, household,
21 and/or family purposes.

22 12. Beginning in or around February of 2016, Defendant placed numerous
23 collection calls to Plaintiff's place of employment at telephone numbers XXX-
24 XXX-8152 and XXX-XXX-0238.

25 13. Defendant's calls were placed from numbers including, but not limited to,

1 800-458-8875.

2 14. In or around February of 2016, Defendant's representative, "John," placed a
3 collection call to Plaintiff's place of employment and spoke with Plaintiff.

4 15. In the collection call in or around February of 2016, Plaintiff informed
5 Defendant that the called number was his work telephone number, informed
6 Defendant that he was unable to take calls at work, and requested that Defendant
7 cease calling his place of employment. In response, Defendant's representative
8 stated that the calls would continue until Plaintiff made a payment.

9 16. Despite informing Defendant that he could not receive calls at work,
10 Defendant continues to constantly and consistently place collection calls to
11 Plaintiff's place of employment.

12 17. Plaintiff fears that Defendant's incessant calls to his place of employment
13 will result in serious repercussions, including being reprimanded by his employer
14 and/or the termination of his employment. As a result of Defendant's incessant calls,
15 Plaintiff has suffered from extreme mental distress, including but not limited to
16 embarrassment, humiliation, emotional distress, anguish, mental suffering, stress,
17 aggravation, anguish, and anxiety.

18 **COUNT I**
19 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
20 **ACT**

21 18. Defendant violated the FDCPA based on the following:

22 a. Defendant violated §1692c(a)(3) of the FDCPA by placing collection
23 calls to Plaintiff's place of employment despite knowing or having
24 reason to know that Plaintiff's employer prohibited such calls;
25 b. Defendant violated §1692d of the FDCPA by engaging in conduct the
natural consequence of which is to harass, oppress, or abuse any person

1 in connection with the collection of a debt;

2 c. Defendant violated §1692d(5) of the FDCPA by causing a telephone
3 to ring repeatedly or continuously with intent to annoy, abuse, or harass
4 any person at the called number.

5 19. Defendant's violations of the FDCPA were willful and knowing.

6 20. As a direct and proximate result of Defendants' violations of the FDCPA,
7 Plaintiff has been damages in amounts which are subject to proof.

8 21. Plaintiff is entitled to recover his actual damages pursuant to 15 U.S.C. §
9 1692k(a)(1).

10 22. Plaintiff is entitled to recover statutory damages pursuant to 15 U.S.C. §
11 1692k(a)(2)(A);

12 23. Plaintiff is entitled to recover his costs and reasonable attorneys' fees
13 pursuant to 15 U.S.C. § 1692k(a)(3);

14 WHEREFORE, Plaintiff prays for relief as set forth below.

15 **COUNT II**

16 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT
17 COLLECTION PRACTICES ACT**

18 24. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's
19 Complaint as the allegations in Count II of Plaintiff's Complaint.

20 25. Defendant violated the RFDCPA based on the following:

21 a. Defendant violated §1788.11(d) of the RFDCPA by causing a
22 telephone to ring repeatedly or continuously to annoy the person
23 called;

24 b. Defendant violated §1788.11(e) of the RFDCPA by communicating,
25 by telephone or in person, with the debtor with such frequency as to be
unreasonable and to constitute an harassment to the debtor under the

circumstances;

- c. Defendant violated §1788.12(a) of the RFDCPA by communicating with Plaintiff's employer regarding Plaintiff's alleged debt;
- d. Defendant violated §1788.17 of the RFDCPA by continuously failing to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692.

26. Defendants' violations of the RFDCPA were willful and knowing.

27. As a direct and proximate result of Defendants' violations of the RFDCPA, Plaintiff has been damaged in amounts that are subject to proof.

28. Plaintiff is entitled to recover his actual damages pursuant to Civil Code § 1788.30(a).

29. Plaintiff is entitled to recover statutory damages pursuant to Civil Code § 1788.30(b).

30. Plaintiff is entitled to recover his attorney's fees and costs pursuant to Civil Code § 1788.30(c).

WHEREFORE, Plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

31. For actual damages according to proof;
32. For statutory damages to the extent permitted by law;
33. For pre-judgment interest to the extent permitted by law;
34. For injunctive relief as permitted by law;
35. For an award of his attorney's fees, costs and expenses incurred in the investigation, filing, and prosecution of this action; and
36. For such other and further relief as the Court may deem just and proper.

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DATED: April 15, 2016

RESPECTFULLY SUBMITTED,

WESTGATE LAW

By:/s/ Matthew A. Rosenthal

Matthew A. Rosenthal
Attorney for Plaintiff